IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Crl.MC.No. 3243 of 2007()

CRA.150/1994 of JUDL.MAGISTRATE OF FIRST CLASS, PERUMBAVOOR
CC.613/1992 of JUDL.MAGISTRATE OF FIRST CLASS, PERUMBAVOOR
CRL.R.P.NO.473/98 OF THIS HONOURABLE COURT.

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PETITIONER: ACCUSED:

V.R. LALU, AGED 37 YEARS,
S/O. RAGHAVAN, VELLIMATTOM VEEDU, KOOVAPADY P.O.,
THODUPUZHA.

BY ADV. SRI.SUJITH MATHEW JOSE

RESPONDENTS: COMPLAINANT & STATE:

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1. M.S. SALIM KUMAR, AGED 42 YEARS,
S/O. SREEDHARAN, MADAPURAM VEEDU, NOW RESIDING AT
KIRAN VILLA, OKKAL P.O., PERUMBAVOOR,ERNAKULAM DT.

2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.GEORGE MATHEW
SRI.SUJITH MATHEW JOSE
P.P. SRI.M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3243 OF 2007

Dated this the 22nd day of October, 2007

ORDER

The petitioner has been found guilty, convicted and sentenced in a prosecution under Sec.138 of the Negotiable Instruments Act. He faces the sentence of simple imprisonment for a period of one year. There is no direction for payment of fine or compensation. The trial court's decision was upheld by the appellate court. The revision petition was dismissed for non-prosecution.

2. The petitioner/accused and the respondent/ complainant have now come before this Court with a prayer that the composition which has been effected at the post revision stage may be accepted and the verdict of guilty, conviction and sentence may be set aside invoking the powers under Sec.482 of the Cr.P.C. as explained in the dictum in

Sabu George v. Home Secretary (2007 (1) KLT 982).

3. The learned counsel for the respondent confirms that the matter has been settled and that the complainant has no further grievance whatsoever against the petitioner.

4. If this Court were not to accept the composition, the petitioner would be compelled to undergo the substantive sentence of simple imprisonment for a period of one year. I am satisfied, in the facts and circumstances of this case, that this is an eminently fit case where the dictum in **Sabu George v. Home Secretary (**2007 (1) KLT 982) must come to the rescue of the petitioner.

5. In the result:

(a) This Crl.M.C. is allowed.

(b) The verdict of guilty, conviction and sentence imposed on the petitioner in C.C. No.613/92 passed by the Judicial Magistrate of the First Class, Perumbavoor, as upheld in Crl.A. No.150/94 by the Additional Sessions Judge, North Parur, is hereby set aside.

Sd/-

(R. BASANT, JUDGE)

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//true copy/ P.S. to Judge